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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,423	02/26/2002	John M. Spangler	01-544US	6747
719	7590	11/17/2008		
Caterpillar Inc. Intellectual Property Dept. AH 9510 100 N.E. Adams Street PEORIA, IL 61629-9510			EXAMINER MILEF, ELDA G	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 11/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/083,423	<b>Applicant(s)</b> SPANGLER, JOHN M.	
	<b>Examiner</b> Elda Milef	<b>Art Unit</b> 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-9 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-9 and 12-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the Claims***

1. This office action is in response to the amendments submitted by the applicants on 8/5/2008.

- Claims 2,4,10 are cancelled.
- Claim 11 is withdrawn.
- Claims 21-23 are new.
- Claims 1, 3, 5-9, 11-23 are pending in the application.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5-9, 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann et al. (hereinafter, Baumann), US Patent PG. Pub. No. 2004/0243483 in view of Moderegger et al. (hereinafter Moderegger), US PG Pub. No. 20002/0049642 in further view of Joch (Joch, Alan. "Competitive Procurement ". Desktop Engineering. copyright 2000; 6 pages).

**Re claim 1:** Baumann discloses:

establishing at least one bid criterion for said component;

establishing a first bid request corresponding to said at least one bid criterion;

identifying at least one potential supplier for said component; submitting said bid

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request to said at least one potential supplier; receiving a bid response from at least one of said potential supplier-see para. 75 and Fig. 9;

comparing said bid response with at least one bid criterion; determining that said bid response is undesirable based on said comparison-see para. 59.

Furthermore, the system disclosed by Baumann can be configured to search on-line auctions for parts matching the parameters supplied by the user-see pars. 14-15. Therefore it is obvious that a determination as to the desirability of the bid must be made.

Further support for the above limitations can be found in pars. 6-7; 13-15; 88-89; 108-109; 159.

Baumann disclose modifying said at least one bid criterion for said component and in response to said bid response being undesirable allowing a client to revise the inquiry to include additional or different parts, and to modify the desired quantity allowing the vendor to respond to the revised inquiry and wherein this process can be repeated many times-see pars. 45; 54-55; 112; 158-160; Figs. 4F-4H.

Baumann do not explicitly disclose establishing a second bid request corresponding to said modified at least one bid criterion; identifying at least one second potential supplier; submitting said second bid request to said at least one second potential supplier; receiving a second bid response from at least one of said at least one second potential supplier; and selecting at least one of said second potential supplier based on said second bid response. Moderegger however, teaches a method and system for managing invitations to bid which discloses the evaluation of bids,

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choosing several bidders to further negotiation, requesting the revision of bids based on new information, restarting the bid process based on the subset of the original prospective bidders, receiving bids from the subset of original bidders, and informing the bidder that he/she has been awarded the contract-see pars. 54-56. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Baumann to specifically include further negotiation with a subset of original potential bidders on criteria such as price, receiving a bid, selecting a bid as taught by Moderegger in order to evaluate bid criteria and obtain the best price and specifications for the buyer.

Baumann and Moderegger do not specifically disclose breaking down the component into a plurality of subcomponents; and determining at least one modified bid criterion for at least one of the plurality of subcomponents; the modified bid request using the at least one modified bid criterion for the at least one of the plurality of subcomponents. Joch however, teaches ("Suppliers may place bids for the entire assembly or simply one component... This line-bidding feature lets the buyer select suppliers on a per-component basis, thereby combining suppliers to satisfy different pieces of the end product. During the bidding, buyers receive bids for all components and the entire assembly at one sitting.")-see p. 3 para. 2. It is obvious that if the buyer will choose the most desirable price i.e., total of individual components [sub-components] versus the entire assembly [component]. The buyer is modifying bid criterion for the assembly [component] by accepting bids on a per-component basis versus accepting bids on the entire assembly and therefore the buyer will have criteria

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established (e.g., price) for each component. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Baumann and Moderegger to specifically include breaking down the assembly into a plurality of components and the buyer accepting bids for the components from one supplier or a combination of suppliers or accepting bids for the entire assembly as taught by Joch in order to give the buyer the option of negotiating the best price for the entire assembly or for individual components. Furthermore, Baumann, Moderegger, and Joch disclose the ability to modify criteria relating to the parts requested by the buyer. The very nature of an auction is the ability to change parameters and negotiation of buyers and sellers resulting in compromising on bid parameters such as cost, amount, delivery terms, etc.

**Re claims 3 and 5:** Baumann and Moderegger disclose modifying said at least one bid criterion; establishing a second bid request as in claim 1 above. Baumann further disclose wherein said plurality of bid criteria includes a cost. –see Baumann para. 83. Baumann and Moderegger do not explicitly disclose establishing a plurality of bid criteria corresponding to a plurality of subcomponents of said component. Joch however teaches an online auction related to entire assemblies or subcomponents.-see pp. 1-3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Baumann and Moderegger to specifically include a bid request is directed to subcomponents as taught by Joch in order to make the procurement process easier.

**Re claim 6:** Baumann disclose the fabrication of parts-see para. 60.

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**Claims 7** has similar limitations found in claim 1 above, and therefore are rejected by the same art and rationale.

**Re claim 8:** Baumann disclose wherein said bid request is an open bid request.- see para. 176; p. 16 lines 66-67 (on-line auction sites).

**Re claim 9,16-19:** Baumann disclose subsequent to receiving no satisfactory bid responses; the step of receiving at least one bid response from said alternative potential suppliers; the step of selecting at least one of said alternative potential suppliers; the step of procuring said component from said selected at least one supplier selected among alternative potential suppliers. -see Figs. 4G-5J and related text. Further support for the claim limitations can be found in Moderegger. Moderegger disclose subsequent to receiving no satisfactory bid responses, the step of submitting said alternative bid request to at least one alternative potential suppliers. –pars. 0053, 0055.

**Re claim 12,13:** Baumann disclose the fabrication of parts in para. 60. Baumann and Moderegger disclose managing bids for products through negotiation in an auction as in claim 1 above. Baumann do not specifically disclose said second bid request includes the step of fabrication of one subcomponent. Joch, however teaches (“Suppliers may place bids for the entire assembly or simply one component...”)-see p. 3 para. 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Baumann and Moderegger to specifically include that the bid request is for the entire assembly as taught by Joch in order to make the procurement process easier.

**Re claim 14,15:** Baumann disclose a plurality of bid criteria including a design associated with at least one of said subcomponents; a function associated with at least one of said subcomponents-see pars.48, 55,177 ; Figs. 4E and 4F and related text.



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**Re claim 20:** Baumann, Moderegger, and Joch disclose alternative bid requests for subcomponents and a design and function associated with said subcomponents as in claims 9, 14, and 15 above.

**Re claims 21, 22:** Baumann disclose wherein said cost included in said plurality of bid criteria includes a fabrication cost and a part cost associated with at least one of said subcomponents; and accepting one of the fabrication cost or part cost. (para. 39- Items can be purchased from a vendor which can be a manufacturer, distributor or retailer of component parts and can be an auction; para. 45 –the component parts may be custom designed [fabricated]; para. 55 –component parameters including user enters a desired value; Para. 58- Providers list displays a list containing details about the providers that can supply a part meeting the user's criteria. The list can be ordered by price. Para. 60-information as to the vendor's ability to fabricate the part; also, see pars. 11-13).

**Re claim 23:** Baumann disclose the alternative bid request as in claim 9 above, furthermore, Baumann disclose the request relating to a cost of each of the subcomponents (pars. 6, 15, 45). Baumann disclose fabrication costs and part cost as in the rejection of claims 21 and 22 above.

### ***Response to Arguments***

3. Applicant's arguments filed 8/5/2008 have been fully considered but they are not persuasive.

In response to the applicant's argument that the combination of Baumann, Moderegger, and Joch fail to teach that a buyer submits both a first bid request for a component and a second modified bid request for at least one subcomponent, Baumann teach a mechanical engineering web portal that solicits bids and places orders at multiple vendors for components, and an association between a component and subcomponents of the components through buyer bid criteria and CAD tools.

Joch discloses a competitive online procurement site wherein bidders have the option to include drawings of a part using files such as those in a CAD graphics format as in Baumann and the bidders can bid on the entire assembly or subassembly components. It is obvious that a bidder will bid on an entire assembly or components of the assembly based on criteria desired by the bidder such as price. It is also old and well known that in an auction, a bidder will change criteria during the auction process in order to acquire the part or entire assembly. Therefore, it is obvious that bidders can change criteria during an auction in order to win, i.e., change the bid criteria from bidding on an entire assembly to bidding on component parts.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

*Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Baumann, Moderegger, and Joch references are analogous art and teach systems and methods for conducting auctions for products.

### ***Conclusion***

**4. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Friday 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kambiz Abdi/  
Supervisory Patent Examiner, Art Unit 3692

Elda Milef  
Examiner  
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